

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION

3 UNITED STATES OF AMERICA) Docket No. A 08-CR-129(1) SS
4)
4 vs.) Austin, Texas
5)
5 ADAM GARZA) August 29, 2008

6
7 TRANSCRIPT OF SENTENCING
8 BEFORE THE HONORABLE SAM SPARKS

9 APPEARANCES:

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25 Proceedings recorded by mechanical stenography, transcript
produced by computer.

10:35:26 1 THE COURT: Call 08-CR-129, United States vs. Adam
10:35:30 2 Garza.
10:35:36 3 MR. PEELE: Chris Peele for the United States, your
10:35:38 4 Honor.
10:35:38 5 MR. ORR: Steve Orr for Mr. Garza, your Honor.
10:35:40 6 THE COURT: Mr. Orr.
10:35:56 7 Tell me your name, please, sir.
10:35:58 8 THE DEFENDANT: Adam Garza.
10:36:00 9 THE COURT: Mr. Garza, have you had time to review with
10:36:02 10 Mr. Orr the presentence investigation made by the probation
10:36:04 11 department in your case?
10:36:08 12 THE DEFENDANT: Yes.
10:36:10 13 THE COURT: They recommend that an offense level
10:36:14 14 adjusted of 23, with a criminal history of IV, for an
10:36:16 15 incarceration range -- guideline range of 70 to 87 months, that
10:36:22 16 you have an 11(c)(1)(C) agreement. They also indicate that a
10:36:30 17 variance under 18 United States Code 3553(a) could be granted,
10:36:34 18 but as stated, you have an 11(c)(1)(C) sentence. In light of the
10:36:52 19 review of the presentence report, I will accept the plea
10:37:02 20 agreement.
10:37:02 21 Do you know of any legal reason we shouldn't proceed,
10:37:06 22 Mr. Orr?
10:37:06 23 MR. ORR: No, your Honor.
10:37:06 24 THE COURT: Does the government have any reason not to
10:37:08 25 proceed?

10:37:08 1 MR. PEELE: No, your Honor.

10:37:10 2 THE COURT: Mr. Garza, you have the right to say
10:37:12 3 anything you wish. You don't have to say anything, but you have
10:37:14 4 any right to say anything that you'd like at this point in time.
10:37:18 5 I'll be glad to listen to anything you'd like to say.

10:37:20 6 THE DEFENDANT: Yeah. Well, first of all, I want to
10:37:34 7 say, my name's Adam Garza. And I want to say sorry to my wife,
10:37:40 8 Anysia Rosales, and to my family, my kids, for involving them in
10:37:50 9 this situation that I'm in, for what happens. There was a few
10:38:00 10 things, you know, I made the bad mistakes of my life and some bad
10:38:04 11 choices, of course, that I know. I was kind of like in a -- I
10:38:12 12 guess, a process of kind of losing quite a bit of my life. Been
10:38:20 13 out quite a bit, worked, kept a stable job, kept two jobs at
10:38:28 14 that.

10:38:28 15 Times got hard. I guess it's just things just became
10:38:34 16 kind of tough and rough. And I can't say that I was set up or I
10:38:44 17 was played as a mule, but I'm accepting my responsibilities for
10:38:48 18 what I've done and the actions that occurred today and that's
10:38:54 19 going to occur. I was in the process of losing quite a bit, like
10:39:00 20 I said, quite a bit of stuff, a house, cars, my family, for the
10:39:06 21 things that I was doing, the habit that I had. Things just got
10:39:14 22 hard or, I guess, with the economy going up and stuff, it just --
10:39:18 23 it was hard.

10:39:20 24 I took chances that I shouldn't have ever took to make
10:39:24 25 my family happy, to give them what they needed, but I guess it's

10:39:30 1 not about giving that I've learned this time. And I know, like I
10:39:40 2 said, most of all, losing my freedom, lost my family, I lost my
10:39:46 3 wife, but one thing I could tell you, I haven't lost faith, your
10:39:50 4 Honor. Faith I'm always going to have. Faith I do got. Like I
10:39:56 5 said, I'm accepting full responsibilities for what I've done and
10:40:02 6 my actions here today.

10:40:06 7 THE COURT: Nice statement, Mr. Garza.

10:40:08 8 Mr. Orr.

10:40:08 9 MR. ORR: Your Honor, you saw the beautiful letters
10:40:10 10 that he --

10:40:10 11 THE COURT: I did.

10:40:12 12 MR. ORR: Very nice letters.

10:40:12 13 THE COURT: They're good. I've attached all of them to
10:40:16 14 the presentence report. It's like so many people we see, Mr.
10:40:22 15 Orr, they have two lives.

10:40:26 16 MR. ORR: Yes, sir. I understand. You see a lot of
10:40:30 17 that. I mean he's -- but then, again, I see a lot of people that
10:40:34 18 don't even get any letters. They don't get any letters.

10:40:38 19 THE COURT: Well, Mr. Garza had no difficulty getting
10:40:40 20 good letters.

10:40:40 21 MR. ORR: Yes, sir.

10:40:42 22 THE COURT: Government have anything they wish to say?

10:40:44 23 MR. PEELE: No, your Honor.

10:40:44 24 THE COURT: Probation have anything they wish to place
10:40:46 25 in the record?

10:40:48 1 PROBATION OFFICER: No, your Honor.

10:40:48 2 THE COURT: Anybody wish to speak at this sentencing?

10:40:52 3 MS. GARZA: Yes.

10:40:58 4 THE COURT: Okay. If you'll come forward.

10:41:04 5 MS. GARZA: Hello, your Honor. My name is Lori Ann

10:41:08 6 Garza. I'm Adam Garza's sister. First, I'd like to thank you

10:41:12 7 for taking the time and hearing me speak about Adam. First and

10:41:16 8 foremost, I'd just like to say that Adam has done wrong and he

10:41:20 9 knows that, and he's willing to pay for his mistakes. But he is

10:41:24 10 a good man at heart and -- sorry.

10:41:28 11 THE COURT: It's all right. Take your time.

10:41:32 12 MS. GARZA: I just ask you to have forgiveness in him

10:41:36 13 and have him close to us so that way my parents can travel and

10:41:42 14 see him because my mom, her eyesight's not good, and my dad has

10:41:46 15 had several strokes, and with his condition he can't drive far

10:41:52 16 away from Austin.

10:41:56 17 Adam has two kids that I know he loves dearly. Both of

10:42:00 18 them are almost -- one is out of school and the other one has one

10:42:04 19 more year. He didn't get to see his daughter graduate, and I

10:42:10 20 know he won't see his son. But I ask you that he has at least

10:42:16 21 time to share those kids' memories with them and that he has time

10:42:24 22 to be out here for them to grow up with them as have those

10:42:28 23 memories. There's a lot of people that know Adam and it's

10:42:34 24 because of his personality, because the way he is towards people.

10:42:38 25 Like I said, he is very kind. He has a kind heart. He could

10:42:42 1 talk to anybody. Just bring up a conversation. That's the way
10:42:46 2 he is. He is a man of his word, and he is a hard-working person.
10:42:52 3 He has worked to do what he has to do for his kids and his family
10:42:58 4 and his wife. I just ask you that you give him a low amount of
10:43:02 5 years so that way he can still have time to spend with his
10:43:06 6 parents and his kids. Thank you.

10:43:26 7 MS. GARZA: Hello, honorable judge. I'm here on behalf
10:43:30 8 of my brother-in-law, Adam Garza. My name is Stephanie Garza. I
10:43:34 9 am here to support him and my family. Adam came to the
10:43:38 10 crossroads of his life where he has to face what he has done is
10:43:42 11 wrong and serve this time. I believe that if you do a crime, you
10:43:46 12 serve your time. But I also believe that people make mistakes in
10:43:50 13 their lives and learn from it.

10:43:54 14 I also believe firmly in rehabilitation because without
10:43:58 15 it, you can never come to the terms that you have done wrong. He
10:44:04 16 has already expressed that he was wrong and needs help. This is
10:44:08 17 the first step to recovery is admitting and asking for help.
10:44:12 18 Part of the rehabilitation comes from the support of family and
10:44:16 19 friends, and that is why we are here, to support him through this
10:44:22 20 dramatic change in his life.

10:44:24 21 I am also here on behalf of my in-laws, Alfonso and Eva
10:44:28 22 Garza. My father-in-law is very ill and has had several strokes
10:44:32 23 and is continually going to doctors appointments. My
10:44:36 24 mother-in-law is also ill and has a hard time driving. The main
10:44:40 25 core of Adam's support has always been them. They are both

10:44:44 1 elderly and have a hard time traveling. So I'm asking the
10:44:48 2 leniency in the sentencing space and ask your Honor to please
10:44:54 3 help us place him close to us and not sending him to another
10:44:56 4 state, because it would put a hardship on my in-laws and everyone
10:45:00 5 who is supporting him at this time in his life. Thank you,
10:45:06 6 respectfully, and God bless.

10:45:08 7 THE COURT: Thank you, ma'am.

10:45:28 8 MS. MORENO: Good morning.

10:45:28 9 THE COURT: Yes, ma'am.

10:45:30 10 MS. MORENO: My name's Christi Moreno, and I'm a friend
10:45:32 11 of Adam Garza. And over the four years, we've become very close
10:45:38 12 friends. His family and my family have grown very close. We
10:45:44 13 spent many holidays and a lot of miles -- we shared a lot of
10:45:50 14 milestones together. He's a very loyal and respectable person
10:45:54 15 with a huge heart. He's always been generous, and whenever I
10:45:58 16 needed help, he was there for me.

10:46:04 17 At this time I know he's made some bad choices in his
10:46:06 18 life, and I know that some of those bad decisions were made
10:46:10 19 because he ended up abusing alcohol and other things. I know
10:46:16 20 he's very sorry for his actions, and he's prepared to face his
10:46:20 21 consequences. And I've been keeping in touch with him lately,
10:46:24 22 and I've seen a huge change in his life. And I know that when
10:46:30 23 entered back into society, he'll be a changed man. At this time
10:46:38 24 I'm requesting that you give Adam the least amount of time
10:46:40 25 possible, and that hopefully you would place him near so that his

10:46:44 1 family and his friends can support him, keep visiting him and
10:46:48 2 stand behind him so that he can continue his change and come out
10:46:52 3 a better man. Thank you.

10:46:54 4 THE COURT: Thank you for coming.

10:46:58 5 MS. MORENO: Thank you.

10:47:14 6 MS. ELIZONDO: Good morning, honorable judge. I'm kind
10:47:16 7 of scared at the moment.

10:47:18 8 THE COURT: It's all right.

10:47:18 9 MS. ELIZONDO: I'm here to speak in behalf of my
10:47:22 10 brother, Adam Garza. My name is Janie Garza-Elizondo. I want to
10:47:32 11 tell you -- I'm sorry. I want to tell you a little bit about my
10:47:42 12 brother, Adam. My brother, Adam, is a good person. He knows
10:47:46 13 he's done wrong in life. I have to say last year, I almost
10:47:56 14 passed away, but my brother was there to support my mom and did
10:48:00 15 at the hospital. I know he tries very hard. He works real hard.
10:48:06 16 His daughter was in the hospital two or three months ago, very
10:48:10 17 sick, and he wasn't there to support his daughter and for the
10:48:16 18 graduation. I'm so sorry.

10:48:22 19 My mom is also a very sick person. She's very nervous
10:48:28 20 at the time. My brother's been very supportive of my parents.
10:48:32 21 He's been there for my dad, also. But he's a good, lovable
10:48:38 22 father and a husband. My brother works very hard. I understand
10:48:42 23 he did wrong in life, and he's got to pay for what he did. But
10:48:48 24 he's suffering right now, and he understands what he did was
10:48:50 25 wrong. But he's willing to pay his consequences what he did and

10:48:58 1 be a better man when he comes out. But I just -- I'm sorry, I'm
10:49:10 2 nervous right now. I can't speak anymore. Thank you, Judge, I
10:49:14 3 just wanted to speak for my brother on behalf of his -- I'm
10:49:20 4 sorry. I can't go anymore. Thank you, anyway.

10:49:24 5 THE COURT: Thank you, ma'am, for coming down. It's
10:49:26 6 important that he will have your support.

10:49:44 7 Anything further, Mr. Orr? Mr. Garza?

10:49:48 8 MR. ORR: Your Honor, if you could recommend the RDAP
10:49:52 9 program for him.

10:49:58 10 THE COURT: Well, he's just above the age of -- I'm not
10:50:02 11 going to do it, but I will put -- request the BOP to place him in
10:50:12 12 Bastrop for family visitation purposes.

10:50:14 13 MR. ORR: Yes, sir.

10:50:16 14 THE COURT: Mr. Garza, pursuant to your 11(c)(1)
10:50:20 15 agreement with the United States attorney, I sentence you to 96
10:50:24 16 months in the custody of the United States Bureau of Prisons,
10:50:26 17 followed by a four-year term of supervised release. You will be
10:50:40 18 tested and counseled for the use of drugs within 15 days of your
10:50:44 19 release and periodically through the four years. You will not
10:50:52 20 take illegal drugs. You will not drink alcohol. You'll be
10:50:54 21 subjected to drug, alcohol and mental health counseling and
10:51:00 22 treatment. You'll pay your copayment required. You will provide
10:51:08 23 any and all financial information of any nature to the United
10:51:10 24 States probation officer upon request.

10:51:16 25 You'll not have any association with any type of

10:51:18 1 contact with members or associates of Tango Blast, or any other
10:51:22 2 prison gang, with the exception of children, brothers and sisters
10:51:26 3 and their children. All other terms and conditions of supervised
10:51:34 4 release will be in full force and effect. Those terms and
10:51:38 5 conditions and the published order of this district.

10:51:44 6 I will impose no fine in the case, because it would
10:51:48 7 simply make it more difficult for your family, but I do impose
10:51:52 8 the required \$100 mandatory assessment under the Victims of Crime
10:51:56 9 Act, which you must pay or work off at your earliest opportunity.
10:52:02 10 We'll place in the judgment that you be for family visitation
10:52:06 11 reasons placed as close to Austin, Texas, with the request that
10:52:14 12 you be placed specifically in Bastrop. We're very full at
10:52:24 13 Bastrop. If you get someplace else, Mr. Garza, get with a
10:52:28 14 counselor, work with them. My experience is they'll get you
10:52:32 15 here, as soon as possible, if you don't get here in the first
10:52:36 16 place.

10:52:36 17 I'm going to seal -- I've already attached all the fine
10:52:40 18 letters I received. I'm going to seal the presentence
10:52:42 19 investigation. Nobody can come in and read about your personal
10:52:46 20 facts unless you want them to by authorizing them. It becomes
10:52:52 21 part of the record on appeal, and the government may use their
10:52:56 22 copies.

10:53:00 23 And my last obligation is to give you this letter that
10:53:04 24 Mr. Orr will go over with you. Under the law a person only has
10:53:10 25 ten days in which to file a notice of appeal if he or she wishes

10:53:14 1 to challenge legally the sentence they have received. If you do
10:53:18 2 not file the notice of appeal, which is a pleading in the clerk's
10:53:22 3 office, within ten days, you never will be able to legally
10:53:26 4 challenge the sentence that I have just imposed. However, I'm
10:53:30 5 also obligated to tell you that that depends upon the agreement
10:53:34 6 that you made with the government on your 11(c)(1)(C) that you
10:53:40 7 may have waived that right. You may not have that right.

10:53:42 8 Mr. Orr will go over with you and explain all of your
10:53:44 9 options. He will also give you his recommendation. You
10:53:48 10 certainly don't want to be in any worse position than you are,
10:53:54 11 but that decision is yours. If you wish to have him file a
10:53:58 12 notice of appeal, regardless of whether he recommends it or not,
10:54:00 13 if you tell him to do so, he will do so in the next ten days;
10:54:04 14 otherwise, you forever waive that right. Do you understand that,
10:54:08 15 sir?

10:54:08 16 THE DEFENDANT: Yes, sir.

10:54:08 17 THE COURT: All right. Good luck to you and I'll
10:54:10 18 remand you.

10:54:10 19 THE DEFENDANT: I want to say one more thing. I wanted
10:54:14 20 to say thanks to my family and friends for taking time out in the
10:54:20 21 support today, and wish my daughter good luck and my wife and
10:54:30 22 friends, also. This time around things will be different.

23 (End of proceedings.)

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UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I, LILY I. REZNIK, Official Court Reporter, United States District Court, Western District of Texas, do certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

WITNESS MY OFFICIAL HAND this the 23rd day of March, 2009.

/s/Lily I. Reznik
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